

REMARKS/ARGUMENTS

Summary

In this Office Action, claims 1-3, 6, 11, and 23-25 stand rejected and claims 12-22 are allowed. Further, an election of species is required and therefore claims 4, 5, 7-10, 26, and 27 have been withdrawn, as described below. With respect to the rejections, claims 23-25 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 1-3, 11, and 23-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 4,575,720 issued to Lepisto (hereinafter "*Lepisto*"). Claims 1, 6, 11, and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent 5,105,997 issued to Wakabayashi et al. (hereinafter "*Wakabayashi*").

Thus, claims 1-3, 6, 11, and 23-25 currently are pending.

Election under 35 U.S.C. § 121

Applicant affirms the provisional election made on November 22, 2005 during a telephone conversation between Examiner and Applicant's agent Mr. Christopher J. Lewis. Specifically, Applicant elects, with traverse, the invention of group 1, figures 1 and 2, claims 1-3, 6, and 11-25.

Amendments to the Claims

Applicant has taken this opportunity to amend claims 1, 12, and 23 without modifying their scope. All amendments are fully supported by the original disclosure and no new matter has been introduced.

Claim Rejections under 35 U.S.C. § 112, second paragraph

Claims 23-25 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regard as the invention. In response, Applicants have amended claim 23 to comply with § 112 and

respectfully submit that said claim, and claims 24 and 25 which depend from claim 23, are in condition of allowance.

Claim Rejections under 35 U.S.C. § 102(a) - *Lepisto*

Claims 1-3, 11, and 23-25 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Lepisto*. In response, Applicant has amended independent claims 1 and 23; therefore, Applicant respectfully submits that said independent claims, and claims 2, 3, 11, 24, and 25 which depend from said independent claims, are allowable over *Lepisto*.

Independent claim 1 is directed to a dispensing nozzle comprising:

a substantially flexible body, the body having a first end configured to couple to a fluid source, a second end configured to dispense fluid, and a wall having an inner portion and an outer portion; and

an interior cavity defined by the inner portion of the wall, the interior cavity configured to allow at least a portion of the interior cavity to decrease in diameter in response to a pressure change partially or completely within the wall.

Thus, the first end is configured to couple to a fluid source and the second end is configured to dispense fluid. Further, the interior cavity is configured to allow at least a portion of the interior cavity to decrease in diameter in response to a pressure change partially or completely within the wall.

In contrast, *Lepisto* does not teach a dispensing nozzle comprising a first end configured to couple to a fluid source and a second end configured to dispense fluid. Rather, *Lepisto* discloses an apparatus for filling bags having a filling valve sleeve, a single end of which passes a pulverant material from a product-filling nozzle, the nozzle being the fluid source. See *Lepisto*, fig. 1. Thus, *Lepisto* cannot be said to disclose or suggest a dispensing nozzle comprising a first end configured to couple to a fluid source and second end configured to dispense fluid.

Furthermore, *Lepisto* does not teach a dispensing nozzle comprising an interior cavity configured to allow at least a portion of the interior cavity to decrease in diameter in response to a pressure change partially or completely within a wall of the dispensing nozzle. Rather, *Lepisto* discloses plastic bag sleeves. However, *Lepisto* cannot be said to disclose or suggest a dispensing nozzle comprising an interior cavity configured to allow at least a portion of the

interior cavity to decrease in diameter in response to a pressure change partially or completely within a wall of the dispensing nozzle.

Given the foregoing, *Lepisto* fails to teach each and every limitation of independent claim 1 and therefore Applicant submits that claim 1 is patentable over *Lepisto*. As claims 2, 3, and 11 depend from claim 1, thereby incorporating the limitations set forth in claim 1, Applicant submits that said claims also are patentable over *Lepisto*. Furthermore, claim 23, and claims 24 and 25 which depend from claim 23, contain the same limitations as claim 1, and therefore, for at least the same reasons as above, also are patentable over *Lepisto*.

Claim Rejections under 35 U.S.C. § 102(a) - *Wakabayashi*

Claims 1, 6, 11, and 23 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Wakabayashi*. As mentioned earlier, Applicant has amended independent claims 1 and 23. Therefore, Applicant respectfully submits that said independent claims, and claims 6 and 11 which depend from claim 1, are allowable over *Wakabayashi*.

As discussed in the previous section, independent claim 1 is directed to a dispensing nozzle comprising an interior cavity configured to allow at least a portion of the interior cavity to decrease in diameter in response to a pressure change partially or completely within the wall.

In contrast, *Wakabayashi* cannot be said to disclose or suggest a dispensing nozzle comprising an interior cavity configured to allow at least a portion of the interior cavity to decrease in diameter in response to a pressure change partially or completely within a wall of the dispensing nozzle. Rather, *Wakabayashi* discloses a nozzle having a tube holding portion for holding a rubber tube, the rubber tube “being folded at folded portions” to close “by the elasticity of the rubber tube.” See *Wakabayashi*, claim 1 and 3:11-12. Thus, *Wakabayashi* cannot be said to disclose or suggest a dispensing nozzle comprising an interior cavity configured to decrease in diameter in response to a pressure change partially or completely within a wall of the dispensing nozzle.

Given the foregoing, *Wakabayashi* cannot be said to teach each and every limitation of independent claim 1 and therefore Applicant submits that claim 1 is patentable over *Wakabayashi*. As claims 6 and 11 depend from claim 1, thereby incorporating the limitations set forth in claim 1, Applicant submits that said claims also are patentable over *Wakabayashi*, for at

least the same reasons. Furthermore, claim 23 contains the same limitations as claim 1, and therefore, for at least the same reasons as above, also are patentable over *Wakabayashi*.

CONCLUSION

In view of the foregoing, Applicant respectfully submits that claims 1-3, 6, 11, and 23-25 are in condition of allowance. Thus, entry of the offered amendments and early issuance of Notice of Allowance is respectfully requested.

The Commissioner is hereby authorized to charge shortages or credit overpayments to Deposit Account No. 500393.

Respectfully submitted,
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